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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 THOMAS CLINTON,

11  
12 Plaintiff,

13 v.

14 R. GREEN, et al.,

15 Defendants.  
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Case No. CV 08-4180-DOC (OP)

ORDER ACCEPTING FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended  
18 Complaint, all the records and files herein, and the Final Report and  
19 Recommendation of the United States Magistrate Judge. The Court accepts the  
20 findings, conclusions, and recommendations of the Magistrate Judge,

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1 IT IS HEREBY ORDERED that:

- 2 (1) accepting this Final Report and Recommendation;
- 3 (2) denying the motion to dismiss Plaintiff's First Amendment access to
- 4 courts claim pursuant to Rule 12(b)(6) as to Defendant Marshall;
- 5 (3) denying the motion to dismiss Plaintiff's First Amendment retaliation
- 6 claim pursuant to Rule 12(b)(6) as to Defendant Green;
- 7 (4) granting the motion to dismiss Plaintiff's First Amendment access to
- 8 courts claim pursuant to Rule 12(b)(6) as to Defendant Green without
- 9 leave to amend;
- 10 (5) granting the motion to dismiss Plaintiff's claim that Defendant
- 11 Marshall interfered with Plaintiff's right of access to courts and
- 12 deprived Plaintiff of his property without due process of law, as these
- 13 claims relate to the loss of destruction of Plaintiff's legal materials,
- 14 and dismissing those claims without leave to amend for failure to
- 15 follow the Court's orders (see Fed. Rule Civ. P. 41(b); see also Ferdik
- 16 v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (holding that district
- 17 court may dismiss action for failure to comply with any order of the
- 18 court));
- 19 (6) denying Defendants' motion to declare Plaintiff a vexatious litigant;
- 20 and

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2 (7) ordering Defendant Marshall to file an Answer to Plaintiff's access to  
3 courts claim and ordering Defendant Green to file an Answer to  
4 Plaintiff's retaliation claim within thirty days of the entry of the order  
5 accepting this Final Report and Recommendation.

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7 DATED: January 25, 2012

*David O. Carter*  
8 HONORABLE DAVID O. CARTER  
United States District Judge

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10 Prepared by:

11 *Oswald Parada*  
12  
13 HONORABLE OSWALD PARADA  
United States Magistrate Judge